

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

RAYMOND WARE,	)	CIVIL NO. 04-00671 HG LEK
	)	
Plaintiff,	)	DECLARATION OF COUNSEL
	)	
vs.	)	
	)	
MICHAEL CHERTOFF, Secretary,	)	
Department of Homeland Security;	)	
JOHN DOES 2-5,	)	
	)	
Defendants.	)	
	)	

---

DECLARATION OF COUNSEL

DAPHNE BARBEE, declares under penalty of perjury, as follows:

1. Declarant is the attorney representing plaintiff RAYMOND WARE in the above-entitled action.
2. Trial is scheduled for March 11, 2008 in Honolulu, Hawaii.
3. An important witness, Mr. Allen Wiley, lives in Seattle, Washington.

Mr. Willey's his attorney contacted declarant on Tuesday, March 4, 2008 and faxed over a physician letter from Dr. Friedman indicating that his client was ill

and should "not fly to Hawaii for legal proceedings because of medical problems which could potentially endanger his health and safety." See Exhibit 1 and 2 attached to Motion to Have Witness Testify by Video or to Continue Trial attached to the instant Motion.

4. Declarant contacted AUSA Tom Helper to inform him and he has no objection to the Ex Parte Motion to Shorten Time for hearing on this Motion.

5. AUSA Helper agrees to allow the witness to testify by video, however, he does not agree to continue the trial.

6. Declarant is seeking an advancement of time for the hearing of the instant motion so that it can be heard as soon as practical.

7. Wherefore, Declarant respectfully requests that the Court grant the instant Motion to Shorten Time for a hearing on Plaintiff's Motion to allow witness to testify by video or to continue the trial date.

Further declarant sayeth naught.

DATED: Honolulu, Hawaii, 3-4-08.

*D. E. Barbee*  
DAPHNE E. BARBEE  
Attorney for Plaintiff RAYMOND WARE